

OFFICIAL GAZETTE



GOVERNMENT OF GOA

NOTE: There is one Supplementary and two Extraordinary issues to the Official Gazette, Series I No. 51 dated 21-3-96 as follows:

- 1) Supplement dated 21-3-1996 from pages 545 to 560 regarding Notification from Dept. of Law and Judiciary (Legal Affairs Division).
- 2) Extraordinary dated 27-3-1996 from pages 561 to 564 regarding Notification from Goa Legislature Secretariat.
- 3) Extraordinary No. 2 dated 27-3-1996 from pages 565 to 568 regarding Notification from Law and Judiciary (Legal Affairs Division).

GOVERNMENT OF GOA

Department of Law and Judiciary

Legal Affairs Division

Notification

7-25-95/LA

The Goa Compulsory Elementary Education Act, 1995 (Goa Act 4 of 1996), which has been passed by the Legislative Assembly of Goa on 14-12-1995 and assented to by the Governor of Goa on 13-3-1996, is hereby published for general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 18th March, 1996.

The Goa Compulsory Elementary Education Act, 1995

(Goa Act No. 4 of 1996) [13-3-1996]

AN

ACT

to make provisions for compulsory elementary education in the State of Goa.

Be it enacted by the Legislative Assembly of the State of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Compulsory Elementary Education Act, 1995.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.— In this Act,—

(a) “attendance at an elementary school” means presence for instruction at an elementary school for such number of days, and on such days in a year, and at such time or times on each day of attendance, as may be prescribed;

(b) “competent authority” means the Director of Education of the Government or such other authority as may be specified by the Government;

(c) “elementary education” means education in such subjects and upto such standard as may be prescribed;

(d) “elementary school” means a school recognised as an elementary school by the competent authority and includes any elementary school in existence on the date of commencement of this Act which has been recognised as such by the Education Department;

(e) “Government” means the Government of Goa;

(f) “guardian” means any person to whom the care, nurture or custody of any child falls by law or by natural rights or by recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care, nurture or custody of any child has been entrusted by any lawful authority;

(g) “parent” means the father or mother of a child and includes an adopted father or mother;

(h) “school age” in relation to a child means such age as may be prescribed;

(i) “year” means the academic year commencing on the 1st day of June.

3. *Elementary education to be compulsory.*— (1) Subject to the provisions of this Act, elementary education shall be compulsory for every child of school age.

(2) For giving effect to the provisions of sub-section (1), the Government shall provide such number of elementary schools in the State with trained teachers, as may be considered necessary.

4. *Duty of every parent or guardian.*— It shall be the duty of every parent or guardian of a child of school age to cause a child to attend an elementary school.

5. *Exemptions.*— Attendance at an elementary school for a child of school age shall not be compulsory —

- (i) if there is no elementary school within such distance, as may be notified by the Government, from the residence of such child;
- (ii) if such child is prevented from attending an elementary school by reason of sickness, infirmity or such other cause as may be prescribed;
- (iii) if such child is attending any unrecognised school provided that the education imparted therein is declared to be satisfactory by the competent authority;
- (iv) if such child is imparted education in such other manner as may be declared to be satisfactory by the competent authority;
- (v) if such child has already been imparted education in an elementary school or otherwise, upto the standard prescribed for elementary education; or
- (vi) if such child is exempt from attendance on any other ground as may be prescribed.

6. *Penalty.*— Every parent or guardian of a child of school age who fails to discharge his duty under section 4 shall be punishable with fine which may extend to one hundred rupees.

7. *Cognizance of offences.*— No court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by the competent authority.

8. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

9. *Power to make rules.*— The Government may make rules to carry out all or any of the purposes of this Act.

Secretariat Annexe, B. S. SUBBANNA,
Panaji. Secretary to the Government of Goa,
Dated: 13-3-1996. Law Department (Legal Affairs).

GOA LEGISLATURE SECRETARIAT

LA/B/ /1994

The following Bill which was introduced in the Legislative Assembly of Goa on 22-3-96 is hereby published for general information in pursuance of

the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 26th March, 1996.

The Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Bill 1996

(Bill No. 3 of 1996)

A BILL

to further amend the Goa Daman & Diu Buildings (Lease, Rent & Eviction) Control Act 1968.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh year of the Republic of India as follows :—

1. *Short title, Extent and Commencement.*— (1) This Act may be called the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 1996.

(2) It extends to the whole of State of Goa.

(3) It shall come into force at once.

2. *Amendment of Section 12.*— Clause (a) of Sub-Section (2) of Section 12 of the Goa Daman & Diu (Lease, Rent & Eviction) Control Act, 1968 (Act 2 of 1969 (hereinafter referred to as "Principal Act")) shall be substituted by the following clause:—

"a) Twenty four percent of the market value of the building (including the land on which the building is constructed) as on the 1st day of January 1965 or twelve percent of the market value of the building (including the land on which the building is constructed) as on the date of the completion of the building, provided the building is completed after 1st January 1965."

3. *Amendment of Section 23.*— After clause (b) and before the 1st proviso to clause (b) of sub section (1) of Section 23, add clause (c) as follows:—

"(c) In case it is any other non-residential building, if the landlord is not occupying a non-residential building in the city, town or village concerned which is his own or to the possession of which he is entitled under this Act or otherwise:—

(i) for the purpose of a business which he is carrying on, on the date of the application, or

(ii) for the purpose of a business which in the opinion of the Controller, the landlord bonafide proposes to commence."

4. *Amendment of Section 32.*— Add the following proviso to Section 32 after Sub section (5) thereof as follows :—

"Provided that nothing in this Section shall apply to any proceedings for eviction before the Rent Controller, arising out of Section 30 of this Act or to any appeal or revision before any appellate or revisional authority, as the case may be, which appeal or revision has arisen out of such proceedings."

5. Amendment of Section 34. — Add the following proviso to Section 34.

"Provided that the relationship of landlord and tenant may be proved by the tenant in any other mode or manner otherwise than by the lease deed executed in writing."

Statement of Objects and Reasons

Section 12 is proposed to amend in order to have enhancement in the rental value in view of hike in prices and in general standard of living.

Whereas a tenant can be evicted from a residential building on the ground of personal occupation, no such provision is found in the Act in respect of other non-residential buildings except the one used for the purpose of keeping a vehicle or adapted for such use.

Under Section 32 a summary eviction of a tenant can be obtained by a landlord for having not deposited the rent in the Court during the pendency of the proceedings even though no permanent eviction is possible under the main proceedings, e. g. proceedings under Section 30.

There has been growing tendency in the recent times to deny the relationship of landlord and tenant, although the tenant occupies the building for a many number of years without having executed any lease deed in writing with the landlord and without the landlord issuing any receipt to the tenant. It has become very difficult for the tenant in such circumstances to prove the tenancy otherwise and the landlord takes the advantage of the situation particularly when the tenant files any application under section 35 of the Act for essential services.

There are also certain other difficulties encountered in implementing the provisions of the Act and hence it is proposed to amend Sections 12, 23, 32 and 34 of the said Act so as to provide for the maintenance of the balance between the interest of the landlord and the tenant.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is contemplated in this Bill.

Panaji,
6th March, 1996.

SHRI MANOHAR PARRIKAR
M. L. A.

Assembly Hall,
Panaji,
13th March, 1996.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

(Annexure to Bill No. 3 of 1996)

**The Goa Building (Lease, Rent and Eviction) Control
(Amendment) Bill, 1996.**

**The Goa Daman & Diu (Lease, Rent and Eviction) Control
Act, 1968
(Act 2 of 1968)**

12. Rent Tribunal to determine fair rent. — (1) The Rent Tribunal shall, on application by the landlord or the tenant of a building, fix the fair rent payable per annum for such building after holding such inquiry as may be prescribed.

(2) The fair rent payable per annum shall consist of—

(a) Twelve per cent of the market value of the building (including the land on which the building is constructed) as on the 1st day of January, 1965, or the date of the completion of the building whichever is later; and

(b) fifty per cent of the taxes or cesses levied by the local authority and payable per annum by the landlord in respect of the building including the land on which the building is constructed:

Provided that where the building has been let out for the first time previous to the 1st day of January, 1965, the fair rent shall not exceed the rent payable in respect of such building on that date.

23. Landlord's right to obtain possession. — (1) A landlord may, subject to the provisions of section 24, apply to the Controller for an order directing the tenant to put him in possession of the building—

(a) in case it is a residential building, —

(i) if the landlord is not occupying a residential building of his own in the city, town or village concerned and he requires it for his own occupation of any member of his family, or

(ii) if the landlord who has more buildings than one in the city, town or village concerned is in occupation of one such building and he *bonafide* requires another building instead, for his own occupation;

(b) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own use and if he is not occupying any such building in the city, town or village concerned which is his own or to the possession of which he is entitled whether under this Act or otherwise:

Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument *inter vivos* shall not be entitled to apply under the Sub-section before the expiry of five years from the date on which the instrument was registered:

Provided further that in case of gift from parents the above period of five years shall be reduced two years:

Provided further that where a landlord has obtained possession of a building under this section, he shall not be entitled to apply again under this section —

(i) in case he has obtained possession of a residential building for possession of another residential building of his own;

(ii) in case he has obtained possession of a non-residential building for possession of another non-residential building of his own.

32. Payment or deposit of rent during pendency of proceedings for eviction. — (1) No tenant against whom a proceeding for eviction has been instituted by a landlord under this Act shall be entitled to contest the proceeding before the Controller or any appellate or revisional authority or to prefer any appeal or revision under this Act, unless he has paid to the landlord or deposits with the Controller or the appellate or revisional authority, as the case may be, all arrears of rent due in respect of the building up to the date of payment or deposit and continues to pay or deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Controller or the appellate or revisional authority.

(2) The deposit of rent under sub-section (1) shall be made within such time and in such manner as may be prescribed.

(3) Where there is any dispute as to the amount of rent to be paid or deposited under sub-section (1), the Controller or the appellate or revisional authority, as the case may be, shall, on application made either by the tenant or by the landlord, and after making such inquiry as he deems necessary, determine summarily the rent to be so paid or deposited.

(4) If any tenant fails to pay or to deposit the rent as aforesaid, the Controller or the appellate or revisional authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

(5) The amount deposited under sub-section (1) may, subject to such condition as may be prescribed, be withdrawn by the landlord on application made by him in that behalf.

34. Execution of lease deed of a building.—Notwithstanding anything contained in clause (c) of sub-section (1) of section 3 or any other law for the time being in force a lease deed shall be executed between the landlord and the tenant whenever a building is let out after this Act comes into force.

Assembly Hall,
Panaji.
13th March, 1996.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

Government Press

Notice

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